

REMARKS

As a preliminary, Applicant and Applicant's representative thank the Examiner for the telephone interview of July 24, 2008.

By the present amendment, new claims 13-14 dependent on claim 1 and reciting the catalyst of claims 3 and 4 (step (a) catalyst), respectively, have been added.

Claims 1-6, 9, and 11-14 are pending in the present application. Claim 1 is the only independent claim.

In the Office Action, claims 1-6, 9, and 11-12 are rejected under 35 U.S.C. 103(a) as obvious over EP 918055A1 ("Ratkai") in view of IN 186587 ("Kankan").

Reconsideration and withdrawal of the rejection is respectfully requested. Contrary to the assertion in the Office Action that the difference between the present claims and the cited references "lies merely in the variation of reagents and reaction conditions such as organic solvent, catalyst combination ranges, etc." (Office Action at page 3, last full paragraph), it is submitted that Ratkai and Kankan are completely silent regarding an aprotic solvent and a catalyst in a reaction step (a), as recited in present claim 1.

Namely, it is submitted that a feature of the presently claimed invention resides in using an aprotic solvent and a catalyst in reacting the compounds of formulas 2 and 5 to obtain the compound of formula 6, as provided in step (a) of present claim 1. In contrast, Ratkai and Kankan do not use any catalyst in a corresponding reaction step. Not only are these references silent regarding a catalyst in the reaction step, they do not even recommend the use of an aprotic solvent.

In particular, Ratkai patent provides for a comparative example (see Ratkai at page.13, Example for comparison No..II) in which the use of an aprotic solvent like ethyl acetate provides a yield of only 3% of the desired product. In the next example of Ratkai, a same reaction is carried out in another aprotic solvent dioxane and the yield obtained is only 50%. In other words, Ratkai strongly suggests that a protic organic solvent in this reaction should be used in order to increase the yield. As a result, Ratkai does not provide any motivation or incentive to use aprotic solvents in the reaction, but rather, Ratkai teaches away from using an aprotic solvent for the reaction.

Similarly, Kankan only lists aprotic solvents as possible solvents for the reaction, but there is no description or example to suggest a solution for the poor yield obtained by using aprotic solvents. As a result, a person of ordinary skill in the art would not have found any motivation or incentive to use aprotic solvents on the basis of Kankan read in conjunction with Ratkai.

In summary, no combination of the cited references teaches or suggests the use of an aprotic solvent and a catalyst in a reaction step (a), as recited in present claim 1. Therefore, the present claims are not obvious over the cited references taken alone or in any combination.

In addition, with respect to the dependent claims, it is submitted that the cited references fail to teach or suggest the combined features of these respective claims. In particular, with respect to claims 3-4 and 13-14, it is submitted that the cited references fail to teach or suggest the aprotic solvent and/or the catalyst as recited in these respective claims. Therefore, each of

the dependent claims, and in particular, each of claims 3-4 and 13-14, is not obvious over the cited references taken alone or in any combination.

In view of the above, it is submitted that the rejections should be withdrawn.

In conclusion, the invention as presently claimed is patentable. It is believed that the claims are in allowable condition and a notice to that effect is earnestly requested.

If there is, in the Examiner's opinion, any outstanding issue and such issue may be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

If this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of the response period. Please charge the fee for such extension and any other fees which may be required to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

/nicolas seckel/

Nicolas E. Seckel
Attorney for Applicants
Reg. No. 44,373
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

NES/rep